

# U.S. ELECTION ASSISTANCE COMMISSION



## *2012 Election Administration & Voting Survey*

### **Virginia**

## *Statutory Overview*

In order to better understand state laws governing federal elections, the U.S. Election Assistance Commission, as part of its biennial Election Administration and Voting Survey, is collecting information on state election laws and procedures. These answers will help EAC to better understand the quantitative data relating to the 2012 general election that we are collecting from all U.S. states and territories.

EAC understands that responding to this Statutory Overview may require significant staff time on the part of your office. Please be assured that we have attempted to minimize the burden, and we appreciate your cooperation in this very important project.

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## DIRECTIONS AND EXAMPLE

Please provide your state's legal citation for the responses to these questions (where applicable). Prior to beginning the Statutory Overview, please ensure that "track changes" is turned on; this will provide a record of all changes that are made including insertions, deletions, and formatting changes. To turn on track changes hold down "Control" and "Shift" and "E" at the same time. For additional assistance in working with "track changes" please contact your Technical Assistance point of contact at ICF International.

We have provided you with your answers to the 2010 Statutory Overview. If there has not been a change in your State's laws or legal citation in the response to a question, please mark No Change Since 2010 with an "X" as shown below:

X No Change Since 2010

If the response has changed since 2010, please mark Changed Since 2010 with an "X" and modify the answer as needed using track changes. If you need to replace the entire answer, please delete the 2010 response and record your 2012 response between the red bracketed text lines, as described below.

X Changed Since 2010

Please answer each question to the best of your ability. If terms are ambiguous or not relevant, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks statutory reference but is widely understood in practice, please explain. If election procedures vary at the local level within your state, please explain to the best of your ability.

If state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court, or executive decision, please specify.

Please keep your responses between the red, bracketed text lines. This will help us extract your answers into our central database.

### Example:

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

- a. Over-vote

[Begin definition (a) below this line.]

*Your answer goes here. You may enter the text directly, or cut and paste from another word processing program.*

*There is no limit to the length of your response.*

[End definition (a) above this line.]

## SECTION A: GENERAL

**A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.**

**a. Over-vote**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin definition (a) below this line.]

"Overvote" means a ballot on which a voter casts a vote for a greater number of candidates or positions than the number for which he was lawfully entitled to vote and no vote shall be counted with respect to that office or issue.

See Va. Code § [24.2-802\(I\)](#)

[End definition (a) above this line.]

**b. Under-vote**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin definition (b) below this line.]

"Undervote" means a ballot on which a voter casts a vote for a lesser number of candidates or positions than the number for which he was lawfully entitled to vote.

See Va. Code § [24.2-802\(I\)](#)

[End definition (b) above this line.]

**c. Blank ballot**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin definition (c) below this line.]

Not defined by statute.

[End definition (c) above this line.]

**d. Void/Spoiled ballot**

       No Change Since 2010        X   Changed Since 2010

**2010 Response:**

[Begin definition (d) below this line.]

See Va. Code [§ 24.2-663](#). When ballot void.

If a ballot is found to have been voted for a greater number of names for any one office than the number of persons required to fill the office, or if the title of the office is erased, the ballot shall be considered void as to all the names designated to fill such office, but no further. No ballot shall be void for having been voted for fewer names than authorized.

If any person votes, either in person or absentee, more than one time in an election, all ballots received from such person shall be void and, if possible, not counted. If one such ballot has already been cast, any additional ballots received from such person shall be void and not counted.

Also,

See [§ 24.2-648](#). Write-in votes on voting equipment.

Write-in votes may be cast on voting equipment for any person whose name does not appear on the ballot as a candidate for the office being voted, subject to this section and the provisions of [§ 24.2-644](#) not in conflict with this section.

Each write-in vote shall be entered in the receptacle or area designated on the device for the office being elected. A write-in vote shall be cast in its appropriate place, in accordance with the instructions for that equipment, or it shall be void and not counted.

See [§ 24.2-707](#). How ballots marked and returned by mail; cast in person; cast on voting equipment.

On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ [24.2-644](#) and [24.2-646](#) without assistance and without making known how he marked the ballot, except as provided by [§ 24.2-704](#).

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the electoral board, and (e) seal that envelope and mail it to the office of the electoral board or deliver it personally to the electoral board or the general registrar. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include

delivery by a personal courier service or another individual except as provided by §§ [24.2-703.2](#) and [24.2-705](#).

An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar or secretary of the electoral board, or at another location or locations in the county or city approved by the electoral board, before a registrar or a member of the electoral board, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar or secretary of the electoral board for the purpose of completing the application for an absentee ballot in person pursuant to §§ [24.2-701](#) and [24.2-706](#). On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar or the secretary may send the items set forth in subdivisions 1 through 4 of §[24.2-706](#) to the applicant by mail, obtaining a certificate of mailing.

Failure to follow the procedures set forth above shall render the applicant's ballot void.

See § [24.2-709](#). Ballot to be returned in manner prescribed by law. (Changed 2012)

A. Any [absentee] ballot returned to the office of the electoral board or general registrar in any manner except as prescribed by law, shall be void. Absentee ballots shall be returned to the electoral board or general registrar before the closing of the polls. The board member or registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. For all ballots returned by the general registrar to the electoral board, the board shall give to the general registrar a receipt showing the time and date of the return....

[End definition (d) above this line.]

**e. Provisional/Challenged ballot**

       No Change Since 2010       X   Changed Since 2010

**2010 Response:**

[Begin definition (e) below this line.]

The Code of Virginia does not have a specific definition for a Provisional Ballot. Instead, Va. Code §§ [24.2-611\(E\)](#), [24.2-643\(B\)](#), [24.2-651.1](#), [24.2-653](#), [24.2-653.1](#), [24.2-701\(B\)\(1\)](#), and [24.2-706](#), and [24.2-708](#) set the procedures for casting a Provisional Ballot.

[End definition (e) above this line.]

**f. Absentee**

☐ No Change Since 2010    ☒ Changed Since 2010

[Begin definition (f) below this line.]

In 2012, Virginia enacted the Uniform Military and Overseas Voters Act (UMOVA) as Chapter 4.1 of Title 24.2. Section [24.2-452\(5\)](#) defines “military-overseas ballot:”

§ 24.2-452. Definitions.

As used in this chapter, unless the context requires a different meaning: ...

5. "Military-overseas ballot" means:

- a. A federal write-in absentee ballot;
- b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title, including an early ballot authorized in § [24.2-702](#); or
- c. A ballot cast by a covered voter in accordance with this title.

The Code of Virginia does not otherwise have a specific definition for an absentee ballot. Requirements for absentee voting are set by Title 24.2, Chapters 4.1 and 7. Of specific interest might be Va. Code § [24.2-707](#). How ballots marked and returned by mail; cast in person; cast on voting equipment.

[End definition (f) above this line.]

**g. Early voting**

☒ No Change Since 2010    ☐ Changed Since 2010

**2010 Response:**

[Begin definition (g) below this line.]

Virginia has excuse-only, in-person, absentee voting. We distinguish this from early voting which is no-excuse, in-person, absentee voting.

[End definition (g) above this line.]

**h. Active Voter**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[Begin definition (h) below this line.]

All voters in Virginia are active voters unless otherwise stated. A voter can change their status to an active voter by Va. Code § [24.2-428.2](#). Return of registered voter to active status.

[End definition (h) above this line.]

**i. Inactive Voter**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[Begin definition (i) below this line.]

Voters in Virginia are placed on inactive status according to Va. Code § [24.2-428](#). Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to notice

...

E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration record, along with the return card, to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to § [24.2-424](#). If the general registrar does not receive the return card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation.

Virginia voters can also be placed on inactive status according to Va. Code § [24.2-428.1](#). Other procedures for assigning registered voters to inactive status.

In addition to the voter list maintenance program provided for in § [24.2-428](#), the general registrar and the registered voter shall follow the confirmation notification procedures set forth in subsections C through E of § [24.2-428](#) if a voter provides an address on a candidate or referendum petition that differs from the address for the voter on the voter registration

system or if any of the following documents sent to the registered voter are returned by the Postal Service as undeliverable:

1. An acknowledgment of registration;
2. An acknowledgment of transfer to a new address;
3. An absentee ballot or application for an absentee ballot sent or provided in accordance with Chapter 7 (§ [24.2-700](#) et seq.);
4. Notification to a voter after a precinct reassignment;
5. Notification of a change of address sent to a voter in accordance with subsection B of § [24.2-428](#); or
6. Any official voter registration or election mail.

[End definition (i) above this line.]

**j. Other terms (please specify) \_\_\_\_\_**

       **No Change Since 2010**        **X**   **Changed Since 2010**

**2010 Response:**

[Identify each TERM and definition separately and begin below this line.]

Other pertinent definitions can all be found in Va. Code §§ [24.2-101](#) and [24.2-452](#). The following may be of interest:

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ [24.2-800](#) et seq.), 9.3 (§ [24.2-945](#) et seq.), and 9.5 (§ [24.2-955](#) et seq.), "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ [24.2-803](#) et seq.) of Chapter 8. For the purposes of Chapters 9.3 (§ [24.2-945](#) et seq.) and 9.5 (§ [24.2-955](#) et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 3 (§ [24.2-947](#) et seq.) of Chapter 9.3.



"Central absentee voter precinct" means a precinct established by a county or city pursuant to § [24.2-712](#) for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.

"Constitutional office" or "constitutional officer" means a county or city office or officer referred to in Article VII, Section 4 of the Constitution of Virginia: clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer.

"Election" means a general, primary, or special election.

"Election district" means the territory designated by proper authority or by law which is represented by an official elected by the people, including the Commonwealth, a congressional district, a General Assembly district, or a district for the election of an official of a county, city, town, or other governmental unit.

"Electoral board" or "local electoral board" means a board appointed pursuant to § [24.2-106](#) to administer elections for a county or city. The electoral board of the county in which a town or the greater part of a town is located shall administer the town's elections.

"General election" means an election held in the Commonwealth on the Tuesday after the first Monday in November or on the first Tuesday in May for the purpose of filling offices regularly scheduled by law to be filled at those times.

"Officer of election" means a person appointed by an electoral board pursuant to § [24.2-115](#) to serve at a polling place for any election.

"Party" or "political party" means an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least 10 percent of the total vote cast for any statewide office filled in that election. The organization shall have a state central committee and an office of elected state chairman which have been continually in existence for the six months preceding the filing of a nominee for any office.

"Person with a disability" means a person with a disability as defined by the Virginians with Disabilities Act (§ [51.5-1](#) et seq.).

"Polling place" means the one place provided for each precinct at which the qualified voters who are residents of the precinct may vote.

"Precinct" means the territory designated by the governing body of a county, city, or town to be served by one polling place.

"Primary" or "primary election" means an election held for the purpose of selecting a candidate to be the nominee of a political party for election to office.

"Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and who is (i) 18 years of age on or before the day of the election or qualified

pursuant to § [24.2-403](#) or subsection D of § [24.2-544](#), (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified voter unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law.

"Qualified voter in a town" means a person who is a resident within the corporate boundaries of the town in which he offers to vote, duly registered in the county of his residence, and otherwise a qualified voter.

"Referendum" means any election held pursuant to law to submit a question to the voters for approval or rejection.

"Registered voter" means any person who is maintained on the Virginia voter registration system. All registered voters shall be maintained on the Virginia voter registration system with active status unless assigned to inactive status by a general registrar in accordance with Chapter 4 (§ [24.2-400](#) et seq.). For purposes of applying the precinct size requirements of § [24.2-307](#), calculating election machine requirements pursuant to Article 3 (§ [24.2-625](#) et seq.) of Chapter 6, mailing notices of local election district, precinct or polling place changes as required by subdivision 13 of § [24.2-114](#) and § [24.2-306](#), and determining the number of signatures required for candidate and voter petitions, "registered voter" shall include only persons maintained on the Virginia voter registration system with active status.

"Registration records" means all official records concerning the registration of qualified voters and shall include all records, lists, applications, and files, whether maintained in books, on cards, on automated data bases, or by any other legally permitted record-keeping method.

"Residence" or "resident," for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. In determining domicile, consideration may be given to a person's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the person, motor vehicle and other personal property registration, and other factors reasonably necessary to determine the qualification of a person to register or vote.

"Special election" means any election that is held pursuant to law to fill a vacancy in office or to hold a referendum.

#### § 24.2-452. Definitions.

As used in this chapter, unless the context requires a different meaning:

1. "Covered voter" means:

- a. A uniformed-service voter or an overseas voter who is registered to vote in this state;
  - b. A uniformed-service voter defined in subdivision 9 a whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements, including subdivision 2 of § [24.2-700](#);
  - c. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;
  - d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or
  - e. An overseas voter who was born outside the United States, is not described in subdivision c or d, and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:
    - (1) The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within this state; and
    - (2) The voter has not previously registered to vote in any other state.
2. "Dependent" means an individual recognized as a dependent by a uniformed service.
3. "Federal postcard application" means the application prescribed under § 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff(b)(2).
4. "Federal write-in absentee ballot" means the ballot described in § 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff-2, that may be used in all elections in which the voter is eligible to vote as provided in § [24.2-702.1](#).
5. "Military-overseas ballot" means:
- a. A federal write-in absentee ballot;
  - b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title, including an early ballot authorized in § [24.2-702](#); or
  - c. A ballot cast by a covered voter in accordance with this title.
6. "Overseas voter" means a United States citizen who is outside the United States.
7. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

8. "Uniformed service" means:

- a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;
- b. The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or
- c. The Virginia National Guard.

9. "Uniformed-service voter" means an individual who is qualified to vote and is:

- a. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;
- b. A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;
- c. A member on activated status of the National Guard; or
- d. A spouse or dependent of a member referred to in this definition.

10. "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

[End TERM(s) and definition(s) above this line.]

**A2. Please provide the legal citation for any *significant* changes to election laws or procedures that have been enacted or adopted since the previous Federal election. "Significant" does not include routine or technical changes (such as changes to election district boundaries or polling place changes). However, EAC would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.**

     No Change Since 2010        X   Changed Since 2010

[Begin response to above question (A2) below this line.]

Since 2010, Virginia has enacted and precleared about a dozen significant changes affecting election administration.

## 2012 Legislation

### **HB9/SB1 Voter identification requirements; provisional ballots.**

(§§ [24.2-643](#), [24.2-651](#), [24.2-651.1](#), [24.2-653](#), and [24.2-701](#))

Eliminates the provision that allows a voter to sign a sworn statement that he is the named registered voter he claims to be in lieu of showing identification. A voter without identification will be offered a provisional ballot and be told that he may submit a copy of one of the required forms of identification to the electoral board in person or by facsimile, electronic mail, or other means. The bill expands the list of acceptable forms of identification to include a valid student identification card issued by a Virginia institution of higher education and certain other documents that show his name and address. The General Assembly approved Governor's amendments at the Reconvened Session that (i) expanded the list of acceptable identification documents to include student IDs from two-year colleges, (ii) deleted a provision that a voter may vote at the polling place without identification if he is known and recognized by an officer of election, and (iii) specified that a voter without identification has three days after the election to submit identification to the electoral board. The General Assembly rejected recommendations that would have provided for a signature comparison of the voter's signatures on file with the registrar and on the provisional ballot envelope in lieu of submission of a voter identification document. The Governor signed the amended bill.

### **SB565 Elections; military and overseas voters.**

(§§ [24.2-419](#), [24.2-444](#), [24.2-612](#), [24.2-700](#), [24.2-701](#), [24.2-702.1](#), [24.2-703](#), [24.2-709](#), and [24.2-451 through 24.2-470](#))

Adopts the Uniform Military and Overseas Voters Act, with modifications, to promote uniformity of treatment and improved administration of election laws for military and overseas voters.

### **SB57 Absentee voting.**

(§ [24.2-701](#))

Provides for an interval of at least five days after a person registers in person to vote before his absentee ballot application can be processed and includes an exception for military and overseas voters.

### **HB57 State Board of Elections and general registrars; duties with respect to voter registration.**

(§§ [24.2-404](#) and [24.2-427](#))

Provides that the State Board shall distribute the alphabetical lists of registered voters in each precinct to each county, city, and town at least 16, rather than 10, days before an election to give more time for local review. The bill also provides that the general registrar shall process the State Board's most recent list of convicted felons within 21 to 14 days before an election, cancel the registration of any registered voter shown to be a felon, and notify the registered voter of the cancellation.

**HB 623 / SB566 Elections, administrative matters, and duties of the electoral board and general registrar.**

(§§ [24.2-120](#), [24.2-306](#), [24.2-415](#), [24.2-517](#), and [24.2-709.1](#))

Provides for certain administrative efficiencies: permits general registrar to administer oath to voting equipment custodians; clarifies method to give notice of change in location of general registrar's office; modernizes procedures to give public notice of registration times and primaries; and permits absentee ballot envelopes to be opened before election day so long as the ballots are placed in a secure ballot container and no count is initiated.

**HB1007 Voter registration; Department of Motor Vehicles.**

(§ [24.2-411.1](#))

Provides for cooperation between the Department of Motor Vehicles and the State Board of Elections in the prompt transmittal of voter registration applications and change of address information from DMV offices to SBE and the general registrars.

**HB1118 Elections; persons eligible to obtain lists of persons voting at primaries and elections.**

(§ [24.2-406](#))

Allows access to the lists for all political purposes by members of the public and nonprofit organizations as well as by candidates, elected officials, and political party chairmen.

**2011 Legislation**

**HB1843 Presidential primary.**

(§§ [24.2-515](#), [24.2-544](#), and [24.2-545](#))

Moves the presidential primary date from the second Tuesday in February to the first Tuesday in March. The bill retains the first Tuesday in March as the primary date before the May general election.

**HB1858 Elections; clarifications related to absentee voting and identification required for certain first-time voters.**

(§§ [24.2-442](#), [24.2-443.3](#), [24.2-612](#), [24.2-643](#), [24.2-701](#), [24.2-702.1](#), [24.2-703](#), and [24.2-706](#))

Provides that certain voter registrations remain valid until the next November general election or federal general election, whichever is later, rather than for 365 days or a federal election cycle. The bill also requires absentee ballots to be available 45 days prior to the election or three business days after receipt of the completed application, whichever is later; and makes other technical changes.

**HB2080 Elections; voting equipment; DREs.**

(§ [24.2-626](#))

Allows, for a limited period until June 30, 2012, the purchase of direct recording electronic machines from any source to meet legal mandates to provide accessible voting equipment. The bill provides for oversight of such purchases by the State Board of Elections. Current law requires these purchases to be made from existing DRE inventories within the Commonwealth.

**HB2251 Elections; pollbooks.**

(§ [24.2-611](#))

Provides that when the electronic pollbooks fail to operate and no alternative voter list or pollbook is available, the officers of election shall maintain a written list of the persons voting and provide provisional ballots to those persons.

**SB1196 Elections; voter registration system; maintenance.**

(§§ [24.2-404](#) and [46.2-208.1](#))

Requires that the State Board of Elections promptly provide to general registrars pertinent information to update voter registration records and requires that the general registrars update records within 30 days of receipt of the information. The bill also allows the State Board to share voter registration information with the chief election officers of other states for the purpose of maintaining the voter registration system.

[End response to above question (A2) above this line.]

## SECTION B: VOTER REGISTRATION

**B1. Is your state's voter registration database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter registration list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)**

☒ **X** No Change Since 2010      ☐ Changed Since 2010

**2010 Response:**

[Begin response to above question (B1) below this line.]

Top down.

[End response to above question (B1) above this line.]

**If your state uses a bottom-up or hybrid system, how often do local jurisdictions transmit registration information to the state list?**

☒ **X** No Change Since 2010      ☐ Changed Since 2010

**2010 Response:**

[Begin response to above clarification question to B1 below this line.]

n/a.

[End response to above clarification question to B1 above this line.]

**B2. Please describe the process used in your state to move voters from the active list to the inactive list, and from the inactive list to the active list. Is a different process used for UOCAVA voters?**

☒ **X** No Change Since 2010      ☐ Changed Since 2010

**2010 Response:**

[Begin response to above question (B2) below this line.]

The process is the same for all voters.

§ 24.2-428. Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to notice.

A. The State Board shall establish a voter list maintenance program using the change of address information supplied by the United States Postal Service through its licensees or by



other reliable sources to identify voters whose addresses may have changed. Any such program shall be regular and periodic and shall be conducted at least annually. The program shall be completed not later than ninety days prior to the date of a federal primary or federal general election.

B. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address in the same county or city in which the voter is currently registered, the State Board of Elections shall provide to the general registrar the information necessary to change the registration records to show the new address, and the State Board of Elections or the general registrar shall send to the new address of the voter by forwardable mail, a notice of the change, along with a postage prepaid, pre-addressed return card by which the voter may verify or correct the address information.

C. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address not in the same county or city, the State Board of Elections or the general registrar shall send to the last known address of the voter by forwardable mail, a notice on a form prescribed by the State Board, along with a postage prepaid and pre-addressed return card on which the voter may state his current address.

D. The registered voter shall complete and sign the return card subject to felony penalties for making false statements pursuant to § [24.2-1016](#).

E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration record, along with the return card, to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to § [24.2-424](#). If the general registrar does not receive the return card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation.

[§ 24.2-428.1](#). Other procedures for assigning registered voters to inactive status.

In addition to the voter list maintenance program provided for in § [24.2-428](#), the general registrar and the registered voter shall follow the confirmation notification procedures set forth in subsections C through E of § [24.2-428](#) if a voter provides an address on a candidate or referendum petition that differs from the address for the voter on the voter registration system or if any of the following documents sent to the registered voter are returned by the Postal Service as undeliverable:

1. An acknowledgment of registration;
2. An acknowledgment of transfer to a new address;

3. An absentee ballot or application for an absentee ballot sent or provided in accordance with Chapter 7 (§ [24.2-700](#) et seq.);
4. Notification to a voter after a precinct reassignment;
5. Notification of a change of address sent to a voter in accordance with subsection B of § [24.2-428](#); or
6. Any official voter registration or election mail.

[§ 24.2-428.2](#). Return of registered voter to active status.

A registered voter shall be returned to active status from inactive status if, during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office thereafter, the voter:

1. Notifies the general registrar of a change of address within the county or city;
2. Responds to a confirmation notice with information that the voter continues to reside at the registration address;
3. Votes or attempts to vote in a primary or a special or general election and, if necessary, corrects the registration record; or
4. Transfers his registration to another county or city within the Commonwealth, pursuant to § [24.2-424](#) or subsection E of § [24.2-428](#).

If the registered voter fails to take such action on or before the day of the second general election for federal office after the voter was placed on inactive status, the general registrar shall cancel the person's voter registration.

The general registrar shall post at the courthouse or have published in a newspaper of general circulation in his county or city a list of names of persons whose registration has been cancelled pursuant to this section. He shall deliver or mail, obtaining a certificate of mailing, a certified copy of the list to the chairman of each political party in his county or city.

[End response to above question (B2) above this line.]

**B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?**

       No Change Since 2010                        X   Changed Since 2010

**2010 Response:**

[Begin response to above question (B3) below this line.]

The state utilizes VERIS (our statewide, computerized, voter registration and election management system) to add, change and cancel voter registrations. The State Board of Elections receives data from numerous sources and it is matched against the voter registration data. Possible matches are then communicated to local registrars who have the capability and authority to add, change and cancel voter registrations. The same procedures apply to UOCAVA voters.

The data sources used for matches include: death records from the Virginia Department of Health (See Va Code § [24.2-408](#)); felony records from the Virginia State Police (See Va. Code § [24.2-409](#)); felony records from the United States Attorneys (See Va Code § [24.2-409.1](#)); lists of persons declared mentally incompetent (**adjudicated incapacitated**) from circuit courts (See Va Code § [24.2-410](#)); and lists of persons who indicate they are a non-citizen in a transaction with the Department of Motor Vehicles (See Va. Code § [24.2-410.1](#)). The procedures for adding, changing or cancelling voter registrations can be found online at: <http://www2.sbe.virginia.gov/GRDocs/VERIS/StepByStep/Add-Update%20Voter.pdf>  
<http://www2.sbe.virginia.gov/GRDocs/VERIS/StepByStep/Prohibited%20List%20Maintenance.pdf>

VERIS uses a confidence factor to determine and communicate possible matches. VERIS determines the Confidence Factor in two steps:

Step 1. Match: Determine which records to consider for calculating a Confidence Factor

Step 2. Calculate: Calculate the Confidence Factor for the matches that were found

**Step 1: Match.** For you to have any confidence in a match there is a minimum amount of information that must be the same. VERIS assumes that for two records to be considered a potential match, one of the following sets of information must be the same:

1. Full SSN, or
2. First Name and Last Name, or
3. Last Name and DOB

**Step 2: Calculate** Once VERIS identifies a possible match, the system calculates the Confidence Factor. VERIS assigns points any time the information in a field is the same for both records. While the total number of points available is more than 100, VERIS displays the Confidence Factor as a percentage between 0 and 100. If the calculated number exceeds 100, VERIS displays a Confidence Factor of 100%.

Field	Points Assigned for Match
Full SSN	40
Last 4 of SSN	10
DOB	25

Last Name	15
First Name	10
Middle Name	5
Suffix	5
Zip Code (first 5)	5
Residence Address	10

More details about the confidence factor are available here:

The legal requirements for cancellation are found in Va. Code § 24.2-427.

[§ 24.2-427](#). Cancellation of registration by voter or for persons known to be deceased or disqualified to vote.

A. Any registered voter may cancel his registration and have his name removed from the central registration records by signing an authorization for cancellation and mailing or otherwise submitting the signed authorization to the general registrar. When submitted by any means other than when notarized or in person, such cancellation must be made at least 22 days prior to an election in order to be valid in that election. The general registrar shall acknowledge receipt of the authorization and advise the voter in person or by first-class mail that his registration has been canceled within 10 days of receipt of such authorization.

B. The general registrar shall cancel the registration of (i) all persons known by him to be deceased or disqualified to vote by reason of a felony conviction or adjudication of incapacity; (ii) all persons known by him not to be United States citizens by reason of reports from the Department of Motor Vehicles pursuant to [§ 24.2-410.1](#) and in accordance with the requirements of subsection B1; (iii) all persons for whom a notice has been received, signed by the voter or from the registration official of another jurisdiction, that the voter has moved from the Commonwealth; and (iv) all persons for whom a notice has been received, signed by the voter or from the registration official of another jurisdiction, that the voter has registered to vote outside the Commonwealth, subsequent to his registration in Virginia. The notice received in clauses (iii) and (iv) shall be considered as a written request from the voter to have his registration cancelled. A voter's registration may be cancelled at any time during the year in which the general registrar discovers that the person is no longer entitled to be registered. The general registrar shall mail notice of any cancellation to the person whose registration is cancelled.

B1. The general registrar shall mail notice promptly to all persons known by him not to be United States citizens by reason of a report from the Department of Motor Vehicles pursuant to [§ 24.2-410.1](#) prior to cancelling their registrations. The notice shall inform the person of the report from the Department of Motor Vehicles and allow the person to submit his sworn statement that he is a United States citizen within 14 days of the date that the notice was mailed. The general registrar shall cancel the registrations of such persons who do not respond within 14 days to the notice that they have been reported not to be United States citizens.

B2. The general registrar shall (i) process the State Board's most recent list of persons convicted of felonies within 21 to 14 days before any primary or general election, (ii) cancel the registration of any registered voter shown to have been convicted of a felony who has not provided evidence that his right to vote has been restored, and (iii) send prompt notice to the person of the cancellation of his registration. If it appears that any registered voter has made a false statement on his registration application with respect to his having been convicted of a felony, the general registrar shall report the fact to the attorney for the Commonwealth for prosecution under § [24.2-1016](#) for a false statement made on his registration application.

C. The general registrar may cancel the registration of any person for whom a notice has been submitted to the Department of Motor Vehicles in accordance with the Driver License Compact set out in Article 18 (§ [46.2-483](#) et seq.) of Chapter 3 of Title 46.2 and forwarded to the general registrar, that the voter has moved from the Commonwealth; provided that the registrar shall mail notice of such cancellation to the person at both his new address, as reported to the Department of Motor Vehicles, and the address at which he had most recently been registered in Virginia. No general registrar may cancel registrations under this authority while the registration records are closed pursuant to § [24.2-416](#). No registrar may cancel the registration under this authority of any person entitled to register under the provisions of subsection A of § [24.2-420.1](#), and shall reinstate the registration of any otherwise qualified voter covered by subsection A of § [24.2-420.1](#) who applies to vote within four years of the date of cancellation.

[End response to above question (B3) above this line.]

**B4. Can your state's voter registration database (or equivalent) share information electronically with your state's driver's license agency (for example, to match records or trace changes in address)? Can your voter registration database be similarly linked with databases in any other state or federal agencies? Please describe these links, including any use of database matching to verify voter registration applications.**

     No Change Since 2010        X   Changed Since 2010

**2010 Response:**

[Begin response to above question (B4) below this line.]

The data sources used for matches include: death records from the Virginia Department of Health (See Va. Code § [24.2-408](#)); felony records from the Virginia State Police (See Va. Code § [24.2-409](#)); felony records from the United States Attorneys (See Va. Code § [24.2-409.1](#)); lists of persons declared mentally incompetent (**adjudicated incapacitated**) from **circuit courts** (See Va. Code § [24.2-410](#)); and lists of persons who indicate they are a non-citizen in a transaction with the Department of Motor Vehicles (See Va. Code § [24.2-410.1](#)).

In addition, we receive **reports of** deaths from **Virginia's Bureau of Vital Statistics**, the Social Security Administration, lists of streets from the United States Postal Service (via Semaphore, a third party vendor), and verify social security numbers for certain voters through the Virginia Department of Motor Vehicles.

The Code of Virginia was changed in 2011 to allow us to share our voter lists with other states for the purpose of database matching. ([SB 1196](#), §24.2-404(A)(9)) Virginia is a member of the Electronic Registration Information Center (ERIC) to facilitate interstate comparison of voter registration records.

[§ 24.2-405](#). Persons who may obtain lists of registered voters.

A. The State Board shall furnish, at a reasonable price, lists of registered voters for their districts to (i) courts of the Commonwealth and the United States for jury selection purposes, (ii) candidates for election or political party nomination to further their candidacy, (iii) political party committees or officials thereof for political purposes only, (iv) political action committees that have filed a current statement of organization with the State Board pursuant to [§ 24.2-949.2](#), or with the Federal Elections Commission pursuant to federal law, for political purposes only, (v) incumbent officeholders to report to their constituents, and (vi) nonprofit organizations that promote voter participation and registration for that purpose only. The lists shall be furnished to no one else and used for no other purpose. However, the State Board is authorized to furnish information from the voter registration system to general registrars for their official use and to the Department of Motor Vehicles and other appropriate state agencies for maintenance of the voter registration system, and to the Chief Election Officers of other states for maintenance of voter registration systems.

B. The State Board shall furnish, at a reasonable price, lists of the addresses of registered voters for their localities to local government census liaisons and their staffs for the sole purpose of providing address information to the United States Bureau of the Census. The State Board shall also furnish, at a reasonable price, such lists to the Clerk of the Senate and the Clerk of the House of Delegates for the sole purpose of maintaining a database of constituent addresses for the General Assembly. The information authorized under this subsection shall be furnished to no other person and used for no other purpose. No list furnished under this subsection shall contain the name of any registered voter. For the purpose of this subsection, the term "census liaison" shall have the meaning provided in 13 U.S.C. § 16.

C. In no event shall any list furnished under this section contain the social security number, or any part thereof, of any registered voter except a list furnished to a court of the Commonwealth or of the United States for jury selection purposes, or to the Chief Election Officer of another state permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for maintenance of voter registration systems.

D. Any list furnished under subsection A of this section shall contain the post office box address in lieu of the residence street address for any active or retired law-enforcement officer, as defined in [§ 9.1-101](#) and in 5 U.S.C. § 8331(20) but excluding officers whose duties relate to detention as defined in paragraphs (A) through (D) of § 8331(20), who has

furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

E. Any list furnished under subsection A of this section shall contain the post office box address in lieu of the residence street address for any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia, who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

F. Any list furnished under subsection A shall contain the post office box address in lieu of the residence street address for any party who has furnished at the time of registration or subsequently, (i) in addition to his street address, a post office box address located in the Commonwealth for use on such lists and (ii) a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him accompanied by evidence that he has filed a complaint with a magistrate or law-enforcement official against such other person. The statement furnished pursuant to clause (ii) of this subsection shall be subject to felony penalties for false statements pursuant to § [24.2-1016](#).

[§ 24.2-406](#). Persons who may obtain lists of persons voting at primaries and elections.

Persons who may obtain lists of persons voting at primaries and elections.

A. The State Board shall furnish, at a reasonable price, lists of persons who voted at any primary, special, or general election held in the four preceding years to (i) candidates for election or political party nomination to further their candidacy, (ii) political party committees or officials thereof for political purposes only, (iii) political action committees that have filed a current statement of organization with the State Board pursuant to § [24.2-949.2](#) or with the Federal Elections Commission pursuant to federal law, for political purposes only, (iv) incumbent officeholders to report to their constituents, and (v) members of the public or a nonprofit organization seeking to promote voter participation and registration by means of a communication or mailing without intimidation or pressure exerted on the recipient, for that purpose only. Such lists shall be furnished to no one else and shall be used only for campaign and political purposes and for reporting to constituents.

B. The State Board shall furnish to the Chief Election Officer of another state, on request and at a reasonable price, lists of persons who voted at any primary, special, or general election held for the four preceding years. Such lists shall be used only for the purpose of maintenance of voter registration systems and shall be transmitted in accordance with security policies approved by the State Board of Elections.

C. In no event shall any list furnished under this section contain the social security number, or any part thereof, of any registered voter, except for a list furnished to the Chief Election Officer of another state permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for maintenance of voter registration systems.



D. Any list furnished under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § [24.2-418](#).

[End response to above question (B4) above this line.]

**B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with NCOA?**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin response to above question (B5) below this line.]

Va. Code § [24.2-428](#). Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to notice.

A. The State Board shall establish a voter list maintenance program using the change of address information supplied by the United States Postal Service through its licensees or by other reliable sources to identify voters whose addresses may have changed. Any such program shall be regular and periodic and shall be conducted at least annually. The program shall be completed not later than ninety days prior to the date of a federal primary or federal general election.

B. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address in the same county or city in which the voter is currently registered, the State Board of Elections shall provide to the general registrar the information necessary to change the registration records to show the new address, and the State Board of Elections or the general registrar shall send to the new address of the voter by forwardable mail, a notice of the change, along with a postage prepaid, pre-addressed return card by which the voter may verify or correct the address information.

C. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address not in the same county or city, the State Board of Elections or the general registrar shall send to the last known address of the voter by forwardable mail, a notice on a form prescribed by the State Board, along with a postage prepaid and pre-addressed return card on which the voter may state his current address.

D. The registered voter shall complete and sign the return card subject to felony penalties for making false statements pursuant to § [24.2-1016](#).

E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall



transfer the registration record, along with the return card, to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to § [24.2-424](#). If the general registrar does not receive the return card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation.

[End response to above question (B5) above this line.]

**B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin response to above question (B6) below this line.]

According to the Constitution and Code of Virginia, convicted felons in Virginia lose their right to vote. (See Va. Const. Art. II, § 1; Va. Code [§ 24.2-427](#).)

Voting rights are not automatically restored in Virginia. A convicted felon may apply for a restoration of their rights through the Sec. of the Commonwealth. Under Article V, Section 12, of the Virginia Constitution and §§ [53.1-229](#) through [53.1-231](#) of the Code of Virginia, all clemency authority is vested solely in the Governor. Clemency is not guaranteed and if a petition is denied, the petitioner has no right of appeal.

An individual may be asked to produce documentation of his/her status when registering to vote. (See Op. Va. Att'y Gen. [2006-48](#).)

[End response to above question (B6) above this line.]

**B7. Does your state currently use the Internet in any way to facilitate voter registration? If yes, please describe how your state allows voters to use the Internet in the registration process (e.g., entire registration completed online; completed online but then must be printed, signed, and mailed by voter, etc.).**

       No Change Since 2010        X   Changed Since 2010

[Begin response to above question (B7) below this line.]

Virginia has fillable applications for voter registration and absentee ballots available online. The voter registration application must be printed, signed by the voter and mailed or delivered to the Virginia State Board of Elections or a local general registrar. Applicants are encouraged to return applications to the general registrar of the locality of the applicant's residence to avoid delays. In 2011, the State Board adopted a regulation allowing electronic submission of an application for registration on a Federal Post Card Application (FPCA) by fax or scanned email attachment. [1 VAC 20-40-80](#). The State Board of Elections plans to introduce a new Citizen Portal for the November 2012 general election to improve accessibility of information to voters. Virginia has authorized two pilot programs for electronic communication of name and address changes as described below in §24.2-423 and §24.2-424.

[§ 24.2-423](#). Notice of change of name of registered voter.

Whenever a registered voter changes his legal name, either by marriage, divorce, order of court, or otherwise, the voter shall promptly notify the general registrar of the jurisdiction where he is registered. Such notice may be made in writing or on a form approved by the State Board of Elections, which may be electronic. The notice in writing may be provided by mail or by facsimile and shall be signed by the voter unless he is physically unable to sign, in which case his own mark acknowledged by a witness shall be sufficient signature. The State Board is authorized to conduct a pilot program, under which electronic notice may be provided by electronic mail or such other electronic means as may be permitted by the State Board and signed by the voter in a manner consistent with the Uniform Electronic Transactions Act (§ [59.1-479](#) et seq.). The general registrar shall enter the new name on the registration records and issue the voter a new voter registration card.

[§ 24.2-424](#). Change of registered voter's address within the Commonwealth; pilot project.

A. Whenever a registered voter changes his place of residence within the Commonwealth, he shall promptly notify any general registrar of the address of his new residence. Such notice may be made in person, in writing, by return of the voter registration card noting the new address, or on a form approved by the State Board of Elections, which may be electronic. The notice in writing may be provided by mail or by facsimile and shall be signed by the voter unless he is physically unable to sign, in which case his own mark acknowledged by a witness shall be sufficient signature. The State Board is authorized to conduct a pilot program, under which electronic notice may be provided by electronic mail or such other electronic means as may be permitted by the State Board and signed by the voter in a manner consistent with the Uniform Electronic Transactions Act (§ [59.1-479](#) et seq.). The fact that a voter provides an address on a candidate or referendum petition that differs from the address for the voter on the voter registration system shall not be deemed sufficient notice, in and of itself, to change the voter's registration address. Any statements made by any voter applying for transfer are subject to felony penalties for making a false statement pursuant to § [24.2-1016](#).

§ 24.2-416.3. Distribution of mail voter registration application forms.

A. The State Board of Elections shall make available to any individual or group a reasonable number of mail voter registration application forms.

B. The State Board shall provide a reasonable number of mail voter registration application forms to each agent of the Department of Game and Inland Fisheries authorized to sell hunting or fishing licenses in Virginia. The Department of Game and Inland Fisheries shall assist the State Board by providing a list of its agents appointed to sell hunting and fishing licenses in Virginia and by instructing its agents to make the mail voter registration application forms available to persons purchasing hunting or fishing licenses.

[End response to above question (B7) above this line.]

## SECTION C: ELECTION ADMINISTRATION

**C1. Please describe how all votes cast at a place other than the voter's precinct of registration are tabulated (for example, please include descriptions of such votes as absentee ballots, mail-in ballots, votes cast at vote centers, provisional ballots, early voting locations, etc.).**

**a. Are the votes counted centrally or at the precincts?**

  X   No Change Since 2010             Changed Since 2010

[Begin response to above question (a) below this line.]

Localities have both options. (*Compare* Va. Code § [24.2-710](#) with Va. Code § [24.2-712](#).)

§ 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists.

Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers to, and obtain a receipt from, the officers of election at each appropriate precinct. Any ballot returned to the electoral board or general registrar prior to the closing of the polls, but after the ballot container has been delivered, shall be delivered in an appropriate container to the officers of election at each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter applicant list for each precinct.

If the county or city uses a central absentee voter precinct pursuant to § [24.2-712](#), the lists and containers shall be delivered, as provided in this section, to the officers of election for the absentee precinct. ...

§ 24.2-712. Central absentee voter precincts; counting ballots.

A. Notwithstanding any other provision of law, the governing body of each county or city may establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. The decision to establish any absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the State Board and the electoral board. ...

[End response to above question (a) above this line.]

**b. If centrally tabulated, are the votes redirected to the appropriate**

**precinct for reporting in the canvass?**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

[Begin response to above question (b) below this line.]

No, they are reported in a separate “central absentee precinct” (CAP).

[End response to above question (b) above this line.]

**c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

[Begin response to above question (c) below this line.]

Localities have both options. (*Compare* Va. Code § [24.2-710](#) with Va. Code § [24.2-712](#).)  
See answer to question C1(a).

[End response to above question (c) above this line.]

**d. How are UOCAVA ballots counted and reported?**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

[Begin response to above question (d) below this line.]

They are treated the same as any other absentee ballot for counting and reporting purposes.

[End response to above question (d) above this line.]

**C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)**

☐ **No Change Since 2010**      ☒ **Changed Since 2010**

**2010 Response:**

[Begin response to above question (C2) below this line.]

Outside of federal requirements, Virginia requires a reason to vote absentee. (*See* Va. Code § [24.2-700](#).) This has not changed, but there have been slight adjustments as to what

constitutes a valid reason to vote absentee. [2012 SB 565](#) added to the provisions for military and overseas voters eligible to vote absentee under UOCAVA.

*§ 24.2-452. Definitions.*

*As used in this chapter, unless the context requires a different meaning:*

*1. "Covered voter" means:*

*a. A uniformed-service voter or an overseas voter who is registered to vote in this state;*

*b. A uniformed-service voter defined in subdivision 9 a whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements, including subdivision 2 of § 24.2-700;*

*c. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;*

*d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or*

*e. An overseas voter who was born outside the United States, is not described in subdivision c or d, and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:*

*(1) The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within this state; and*

*(2) The voter has not previously registered to vote in any other state.*

*2. "Dependent" means an individual recognized as a dependent by a uniformed service.*

*3. "Federal postcard application" means the application prescribed under § 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff(b)(2).*

*4. "Federal write-in absentee ballot" means the ballot described in § 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff-2, that may be used in all elections in which the voter is eligible to vote as provided in § 24.2-702.1.*

*5. "Military-overseas ballot" means:*

*a. A federal write-in absentee ballot;*

*b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title, including an early ballot authorized in § 24.2-702; or*

*c. A ballot cast by a covered voter in accordance with this title.*

*6. "Overseas voter" means a United States citizen who is outside the United States.*

*7. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.*

*8. "Uniformed service" means:*

*a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;*

*b. The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or*

*c. The Virginia National Guard.*

*9. "Uniformed-service voter" means an individual who is qualified to vote and is:*

*a. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;*

*b. A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;*

*c. A member on activated status of the National Guard; or*

*d. A spouse or dependent of a member referred to in this definition.*

*10. "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.*

*§ 24.2-453. Restriction of ballot eligibility.*

*To be eligible to vote in state and local elections, the application of an overseas voter who has given up his place of abode in Virginia must show that the applicant is employed overseas or the spouse or dependent of a person employed overseas.*

*§ 24.2-458. Methods of applying for military-overseas ballot.*

*A. A covered voter who is registered to vote in this state may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under Chapter 7 (§ 24.2-700 et seq.) or the federal postcard application.*

*B. A covered voter who is not registered to vote in this state may use a federal postcard application to apply simultaneously to register to vote under § 24.2-457 and for a military-overseas ballot.*

*C. The electoral board shall ensure that the system described in subsection C of § 24.2-455 is capable of accepting the submission of both a federal postcard application and any other approved military-overseas ballot application sent to the appropriate election official. The voter may use the system or any other approved method to apply for a military-overseas ballot.*

*D. A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot.*

*E. To receive the benefits of this chapter, a covered voter must inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:*

- 1. The use of a federal postcard application or federal write-in absentee ballot;*
- 2. The use of an overseas address on an approved voter registration application or ballot application; and*
- 3. The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.*

*F. This chapter does not preclude a covered voter from voting under Chapter 7 (§ 24.2-700 et seq.).*

*§ 24.2-700. Persons entitled to vote by absentee ballot.*

The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;
2. Any person who is (i) a member of a uniformed service-, as defined in § 24.2-452, on active duty, ~~or~~ (ii) temporarily residing outside of the United States, or ~~(iv)~~ (iii) the spouse or



dependent residing with any person listed in *clause (i), or (ii), or (iii)*, and who will be absent on the day of the election from the county or city in which he is entitled to vote;

3. Any student attending a school or institution of learning, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any duly registered person with a disability, as defined in § [24.2-101](#), who is unable to go in person to the polls on the day of election because of his disability, illness, or pregnancy;

5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;

6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;

7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home;

8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion;

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for ~~eleven-11~~ or more hours of the ~~thirteen-13~~ hours that the polls are open pursuant to § [24.2-603](#);

10. Any person who is a law-enforcement officer, as defined in § [18.2-51.1](#); firefighter, as defined in § [65.2-102](#); volunteer firefighter, as defined in § [27-42](#); search and rescue personnel, as defined in § [18.2-51.1](#); or emergency medical services personnel, as defined in § [32.1-111.1](#); or

11. Any person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § [24.2-604](#) and § [24.2-639](#).

[End response to above question (C2) above this line.]

**C3. Does your state provide for in-person early voting? If so, how is early voting defined? When early voting is used, are the ballots counted at the precinct or at a central location? How are these votes reported?**

       No Change Since 2010                        X   Changed Since 2010

**2010 Response:**

[Begin response to above question (C3) below this line.]

Virginia allows excuse-only, in-person, absentee voting.

In-person absentee voting can start as soon as ballots are ready which changes upon the election type.

§ [24.2-612](#). List of offices and candidates filed with State Board and checked for accuracy; when ballots printed; number required.

...The electoral board shall make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later. In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the electoral board shall make printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making printed ballots available includes mailing of such ballots or electronic transmission of such ballots pursuant to § [24.2-706](#) to a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § [24.2-700](#). Not later than five days after absentee ballots are made available, each electoral board shall report to the State Board, in writing on a form approved by the State Board, whether it has complied with the applicable deadline.

In-person absentee voting must begin by the deadline for sending absentee ballots, 45 days before most elections.

§ [24.2-701](#). Application for absentee ballot.

... For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election. ...

These ballots are reported the same as any other absentee ballot. Localities have the option of reporting centrally or by precinct. (*Compare* Va. Code § [24.2-710](#) with Va. Code § [24.2-712](#).)

[End response to above question (C3) above this line.]

**C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin response to above question (C4) below this line.]

No.

[End response to above question (C4) above this line.]

**C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.**

       No Change Since 2010        X   Changed Since 2010

**2010 Response:**

[Begin response to above question (C5) below this line.]

Virginia specifies reasons for voting provisionally:

1. Electronic pollbooks fail and officers of election have no other means of determining eligibility, Va. Code §[24.2-611\(E\)](#).
2. Voter issued absentee ballot goes to the polls after having surrendered his unused or spoiled ballot before election day. Va. Code §[24.2-708](#).
3. Voter is shown on pollbook as having already voted. [Va. Code §24.2-651.1](#).
4. Voter is voting after the normal poll closing time due to a court order extending the time established by state law for closing the polls. (Va. Code § [24.2-653\(C\)](#))
5. Voter requested an absentee ballot but did not receive it or lost the ballot. (Va. Code §§ [24.2-653.1](#) and [24.2-708](#).)
6. Voter is subject to HAVA identification requirements but did not show a HAVA ID. (Va Code §§ [24.2-653](#) and [24.2-701\(B\)](#).)
7. Voter's name mistakenly was omitted from pollbook. (Va. Code § [24.2-653](#).) This includes persons who submitted a voter registration application at an NVRA agency but whose application was lost before being processed by the general registrar.

[End response to above question (C5) above this line.]

**C6. Does your state count provisional ballots of voters who are registered in different precincts, or are those ballots automatically rejected? Please describe the process used by local election officials in determining whether to count a provisional ballot.**

  X   No Change Since 2010             Changed Since 2010

[Begin response to above question (C6) below this line.]

No, these provisional ballots are rejected.

According to our General Registrar and Electoral Board handbook, Chapter 29, pages 8-9 :

Statutes and Policies for Determining Qualification of Provisional Ballots

**29.3.1 Reasons # 1 or # 2 - Voter's name not on pollbook; Voter says he/she is registered to vote in that precinct**

If the name of a voter does not appear on the precinct pollbook, the voter must be given a provisional ballot to vote if

- the general registrar cannot be reached, or
- the general registrar is unable to determine that a voter is registered to vote, AND
- the voter states he or she is a registered voter in the precinct.

An officer of election should ask the voter for correct spelling of name or if there has been a recent name change.

An officer of election should check for the voter's name at the end of the alphabetical section or on any separate listing provided by the registrar.

An officer of election should ask when and where the voter registered to vote and last voted. If the voter advises he or she registered at a DMV or other NVRA agency, ask if he or she knows the date, or approximate date, and location of the DMV or NVRA agency. This information may be used by the registrar to help locate the citizen's registration documents. § 24.2-444. Contact SBE's Voter Registration Coordinator if help is needed to identify NVRA agencies.

An officer of election should obtain the voter's full legal name, address, and social security number before calling the registrar's office. The officer should explain that providing the information is optional and requested in order to look up the voter's record.

An officer of election should check the street file records, alpha roster, electronic pollbooks, other such materials provided, or information from the general registrar to determine if the voter is in the correct precinct. If the voter is found to be in the incorrect precinct, advise him or her of the correct precinct in which he or she is registered and advise that he or she can only vote in that precinct in order to have his or her ballot counted.

○ Exception: If proof is found that the person attempted to register (or transfer/update his or her registration) at DMV or another NVRA agency before the registration deadline, and the person completes a voter registration form *at the polls*, that application will be accepted or rejected as if it had been received on time. If the voter is found qualified to be registered, the provisional ballot must have been cast in the precinct in which the voter would have been registered.

The chief officer of election (or an officer designated by the chief) must take the voter aside and contact the general registrar. Consider that voters may be embarrassed by having attention drawn to them and take precautions to protect the privacy of all personal information. The general registrar will advise the officer whether the person in question has been erroneously deleted from the pollbook and explain the necessary procedure.

- At this point, two situations may exist:

- The registrar informs the officer that the voter was erroneously deleted from the pollbook.
- The registrar informs the officer that the voter was not erroneously deleted from the pollbook, or the registrar is unavailable.

[End response to above question (C6) above this line.]

**C7. Please describe your state's laws regarding post-election audits, if any. A post-election audit refers to hand-counting votes on paper records and comparing those counts to the corresponding vote counts originally reported, as a check on the accuracy of election results, and resolving discrepancies using accurate hand counts of the paper records as the benchmark.**

**If your state has post-election auditing, consider including in your response information such as the unit being audited (e.g., precincts, machines); the sampling method (e.g., fixed percentages); whether there is a specific trigger for the audit; the location of the random selection (e.g., state, county); and the races that can be audited.**

  X   **No Change Since 2010**             **Changed Since 2010**

[Begin response to above question (C7) below this line.]

Virginia's law was changed in 2008 to allow post-election audits.

§ [24.2-671.1](#). Pilot programs for audits of optical scan tabulators.

A. The State Board shall be authorized to provide for pilot programs in one or more localities with respect to an election in which the margin between the top two candidates for each office on the ballot exceeds 10 percent, with the consent of the electoral board of the locality, to conduct a post-election audit of one or more optical scan tabulators in one or more precincts, notwithstanding any other provision of law to the contrary. The purposes of the pilot programs shall be to study the accuracy of optical scan tabulators; to evaluate the time, cost, and accuracy of audits; and to determine proper procedures for conducting audits. A pilot program may audit any combination of randomly selected or specific tabulators.

B. No audit conducted as part of a pilot program shall commence until after the election has been certified and the period to initiate a recount has expired without the initiation of a recount. An audit conducted as part of a pilot program shall have no effect on the election results.

C. All audits shall be performed in accordance with the procedures prescribed by the State Board under the supervision of the local electoral board. The procedures established by the State Board shall include its procedures for conducting hand counts of ballots. Candidates and political parties may have representatives observe the audits.

D. At the conclusion of each audit, the local electoral board shall announce publicly the results of the audit of the machines in its jurisdiction. The announcement shall include a comparison of the audited election results and the initial tally for each machine audited, and an analysis of any detected discrepancies.

[End response to above question (C7) above this line.]

**C8. Please describe any state requirements for poll worker training.**

  X   No Change Since 2010             Changed Since 2010

[Begin response to above question (C8) below this line.]

§ [24.2-103](#). Powers and duties in general.

B. The Board shall ensure that the members of the electoral boards and general registrars are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards and general registrars for the training. The Board shall set the training standards for the officers of election to be fulfilled by the local electoral boards and general registrars. The Board shall require certification that officers of election have been trained consistent with the training standards set by the Board. Such certification shall be submitted each year prior to the November general election by the local electoral board.

§ [24.2-115](#). Appointment, qualifications, and term of officers of election.

...The electoral board shall instruct each chief officer and assistant in his duties not less than three nor more than 30 days before each election. Each electoral board may instruct each officer of election in his duties at an appropriate time or times before each November general election, and shall conduct training of the officers of election consistent with the standards set by the State Board pursuant to subsection B of § [24.2-103](#). Each electoral board shall certify to the State Board that such training has been conducted every four years.....

State Board of Elections [Policy 2010-2](#) provides the training standards.

[End response to above question (C8) above this line.]

## SECTION D: ELECTION DAY ACTIVITIES

**D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

[Begin response to above question (D1) below this line.]

Over-votes and under-votes statistics are not tracked at the state level.

[End response to above question (D1) above this line.]

**D2. What identification does your state require from voters in the following situations:**

**a. registering to vote;**

☐ **No Change Since 2010**      ☒ **Changed Since 2010**

**2010 Response:**

[Begin response to above question (a) below this line.]

Identification is not required for voter registration. However, first-time voters in federal election who register by mail are encouraged to enclose a copy of their identification. If voting absentee by mail when eligible, their ballot cannot be counted unless a copy of identification meeting HAVA standards is provided to be received by the electoral board no later than noon three days after the election.

[End response to above question (a) above this line.]

**b. casting an in-person ballot;**

☐ **No Change Since 2010**      ☒ **Changed Since 2010**

**2010 Response:**

[Begin response to above question (b) below this line.]

**§ 24.2-643.** Qualified voter permitted to vote; procedures at polling place; voter identification.

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, his concealed handgun permit issued pursuant to § [18.2-308](#), or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; any valid student identification card issued by any institution of higher education located in the Commonwealth of Virginia; any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business; or a copy of a current utility bill, bank statement, government check, or paycheck that shows the name and address of the voter.

Any voter who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § [24.2-653](#). The State Board of Elections shall provide an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar or electoral board other than matching submitted identification documents from the voter for the electoral board to make a determination on whether to count the ballot.

If the voter's name is found on the pollbook, if he presents one of the forms of identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth. Each voter whose name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room containing the voting booths and shall remain under observation by the officers of election.

A voter may be accompanied into the voting booth by his child age 15 or younger.

C. If the current residence address stated by the voter is different from the address shown on the pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § [24.2-1016](#), which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ [24.2-400](#) et seq.).

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom the pollbook indicates that an identification number other than a social security number is recorded on the Virginia voter registration system if he presently has a social security number. If the voter is able to provide his social security



number, he shall be furnished with a voter registration form prescribed by the State Board to update his registration information. Upon its completion, the form shall be placed by the officer of election in an envelope provided for such forms for transmission to the general registrar. Any social security numbers so provided shall be entered by the general registrar in the voter's record on the voter registration system.

E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state. At such election, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § [24.2-653](#). Neither the identification requirements of subsection B, nor the identification requirements of subsection A of § [24.2-653](#), shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § [24.2-653](#) and this section.

[§ 24.2-701](#). Application for absentee ballot.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar or a member of the electoral board. The applicant shall provide one of the forms of identification specified in subsection B of § [24.2-643](#). Any applicant who does not show one of the forms of identification specified in subsection B of § [24.2-643](#) shall be offered a provisional ballot under the provisions of § [24.2-653](#). The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § [24.2-653](#) and this section.

For federal elections held after January 1, 2004, this paragraph shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time that voter votes in a federal election in the state. After completing an application for an absentee ballot in person, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subdivision shall be offered a provisional ballot under the provisions of § [24.2-653](#). Neither the identification requirements of subsection B of § [24.2-643](#), nor the identification requirements of subsection A of § [24.2-653](#), shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § [24.2-653](#) and this section.....

[End response to above question (b) above this line.]

**c. casting a mail-in or absentee vote;**

       No Change Since 2010        X   Changed Since 2010

[Begin response to above question (c) below this line.]

Va. Code [§ 24.2-701](#)(B) requires identification when voting absentee in person and when a voter subject to HAVA identification is voting absentee by mail for the first time in a federal election: the absentee ballot will not count unless a copy of identification is included with the ballot or provided to the electoral board by Friday noon following the election.

[End response to above question (c) above this line.]

**d. casting a ballot under UOCAVA;**

       No Change Since 2010        X   Changed Since 2010

[Begin response to above question (d) below this line.]

UOCAVA voters are exempt from the vote-in-person requirement of Va. Code § 24.2-416.1. They are also exempt from the HAVA identification requirement for first time voters registering by mail. 42 USC 15483(b)(3)(C), Va. Code §24.2-643(E). Otherwise, they are subject to the same identification requirements as other Virginia voters.

[End response to above question (d) above this line.]

**e. any other stage in registration or voting process in which identification is required (please specify).**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin response to above question (e) below this line.]

None. Though, Virginia requires certain persons who apply to register to vote by mail to vote in person their first time voting. *See* Va. Code § 24.2-416.1.

[§ 24.2-416.1](#). Voter registration by mail.

A. A person may apply to register to vote by mail by completing and returning a mail voter registration application form in the manner and time provided by law.

B. Any person, who applies to register to vote by mail pursuant to this article and who has not previously voted in the county or city, in which he registers to vote, shall be required to vote in person, either at the polls on election day or in-person absentee. However, this requirement to vote in person shall not apply to a person so long as he (i) is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff-1 et seq.); (ii) is provided the right to vote otherwise than in person under § 3 (b) (2) (B) (ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee-1 (b) (2) (B) (ii)), including any disabled voter and any voter age 65 or older who is otherwise qualified to vote absentee under § [24.2-700](#); (iii) is entitled to vote otherwise than in person under other federal law; (iv) is a full-time student in an institution of higher learning; or (v) requests to vote an absentee ballot by mail for presidential and vice-presidential elections only, for any reason, as entitled by federal law.

[End response to above question (e) above this line.]

**D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.**

       No Change Since 2010                        X   Changed Since 2010

[Begin response to above question (D3) below this line.]

Virginia allows up to three authorized representatives per party or independent candidate to observe elections. The observer must be a qualified voter with a signed authorization from the party or candidate. Observers may use cell phones and electronic devices but not take pictures or cause disruption. Following Virginia Attorney General Opinion [11-028](#) holding that local electoral boards and officers of election may not restrict the movement of authorized representatives at the polling place, legislation was enacted in 2012 to clarify that (1) observation cannot interfere with ballot secrecy and orderly process of the election; and (2) attendance at meeting considering provisional ballots is limited to authorized representatives, the provisional voter and his legal counsel, staff and legal counsel to the electoral board. The State Board of Elections provides a [guidance document](#) for authorized representatives titled Dos and Don'ts on Election Day.

§ [24.2-604](#). Prohibited activities at polls; notice of prohibited area; presence of representatives of parties or candidates; simulated elections; penalties; neutral observers;

C. The officers of election shall permit one authorized representative of each political party or independent candidate in a general or special election, or one authorized representative of each candidate in a primary election, to remain in the room in which the election is being conducted at all times. A representative may serve part of the day and be replaced by

successive representatives. The officers of election shall have discretion to permit up to three authorized representatives of each political party or independent candidate in a general or special election, or up to three authorized representatives of each candidate in a primary election, to remain in the room in which the election is being conducted. The officers shall permit one such representative for each pollbook station. However, no more than one such representative for each pollbook station or three representatives of any political party or independent candidate, whichever number is larger, shall be permitted in the room at any one time. Each authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. Such statement, bearing the chairman's or candidate's original signature, may be photocopied, and such photocopy shall be as valid as if the copy had been signed. No candidate whose name is printed on the ballot shall serve as a representative of a party or candidate for purposes of this section. Authorized representatives shall be allowed, whether in a regular polling place or central absentee voter precinct, to be close enough to the voter check-in table to be able to hear and see what is occurring; however, such observation shall not violate the secret vote provision of Article II, Section 3 of the Constitution of Virginia or otherwise interfere with the orderly process of the election. Any representative who complains to the chief officer of election that he is unable to hear or see the process may accept the chief officer's decision or, if dissatisfied, he may immediately appeal the decision to the local electoral board. Authorized representatives shall be allowed, whether in a regular polling place or central absentee voter precinct, to use a handheld wireless communications device, except that authorized representatives shall not be allowed to use such devices when they contain a camera or other imaging device to film or photograph inside a polling place or central absentee voter precinct. The officers of election may prohibit the use of cellular telephones or other handheld wireless communications devices if such use will result in a violation of subsection A or D or § [24.2-607](#). Authorized representatives shall not be allowed in any case to provide assistance to any voter as permitted under § [24.2-649](#) or to wear any indication that they are authorized to assist voters either inside the polling place or within 40 feet of any entrance to the polling place.

D. It shall be unlawful for any authorized representative, voter, or any other person in the room to (i) hinder or delay a qualified voter; (ii) give, tender, or exhibit any ballot, ticket, or other campaign material to any person; (iii) solicit or in any manner attempt to influence any person in casting his vote; (iv) hinder or delay any officer of election; (v) be in a position to see the marked ballot of any other voter; or (vi) otherwise impede the orderly conduct of the election.

*See Va. Code § 24.2-604(I) (electoral board may authorize additional neutral observers).*

§ [24.2-653](#). Voter whose name does not appear on pollbook; handling of provisional ballots; ballots cast after normal close of polls due to court order extending polling hours.

B.

...

One authorized representative of each political party or independent candidate in a general or special election or one authorized representative of each candidate in a primary election shall be permitted to remain in the room in which the determination is being made *as an observer* so long as he does not *participate in the proceedings and does not* impede the orderly conduct of the determination. Each authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative, who is not himself a candidate or party chairman, shall present to the electoral board a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. Such statement, bearing the chairman's or candidate's original signature, may be photocopied and such photocopy shall be as valid as if the copy had been signed.

Notwithstanding the provisions of the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.), attendance at meetings of the electoral board to determine the validity of provisional ballots shall be permitted only for the authorized representatives provided for in this subsection, for the persons whose provisional votes are being considered and their representative or legal counsel, and for appropriate staff and legal counsel for the electoral board.

[End response to above question (D3) above this line.]

## SECTION E: OTHER

**E1. Under HAVA, Section 402, states are required to establish and maintain administrative complaint procedures to remedy grievances. Has your state revised its administrative complaint procedures since they were first implemented? If so, how?**

       No Change Since 2010        X   Changed Since 2010

[Begin response to above question (E1) below this line.]

In 2012, Virginia streamlined and simplified its administrative complaint procedures and form consistent with HAVA to provide for alternative dispute resolution after 90 days. The updated complaint form is available in Spanish.

[End response to above question (E1) above this line.]

**E2. Please add any additional comments or information about your state's election administration processes that would help to inform the EAC's interpretation of your data.**

       No Change Since 2010        X   Changed Since 2010

### 2010 Response:

[Begin response to above question (E2) below this line.]

The law remains unsettled still whether federal law preempts other federal and state laws shielding individual voter personal information from public disclosure and copying on request. Federal courts in the Fourth Circuit have ruled that the National Voter Registration Act, 42 USC 1973gg-6(i), requires Virginia election officials to provide copies of redacted registration applications upon request. *Project Vote v. Long*, U.S. Dist. Ct. E.D.Va. No. 2:10-cv-0075. State officials have appealed seeking to protect sensitive personal information such as the addresses of voters whose lives could be endangered. Earlier, in December 2010, the City of Richmond Circuit Court held a Virginia statute invalid as applied to a nonprofit organization seeking voter history information to encourage participation in the political voting process. *The KnowCampaign v. Rodrigues*, Richmond City Cir. Ct. No. CL10—3425 (Dec. 21, 2010). Section 24.2-406 of the Code of Virginia has been amended consistent with this decision.

[End response to above question (E2) above this line.]

\* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website ([www.eac.gov](http://www.eac.gov)). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 5/31/2013). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2012 Election Administration and Voting Survey, 1201 New York Avenue, Suite 300, Washington, DC 20005.